

IN THE MATTER OF

* BEFORE THE MARYLAND

FRANCES ANN PHILPOT

* BOARD OF NURSING

CERTIFICATE NO.: A00023019

*

* * * * *

**DEFAULT FINAL DECISION AND ORDER OF REVOCATION
OF CERTIFIED NURSING ASSISTANT CERTIFICATE**

On June 7, 2021, the Maryland Board of Nursing (the “Board”) issued a charging document¹ (the “Charges”) to **FRANCES ANN PHILPOT**, certified nursing assistant (“CNA”), certificate number **A00023019**, (the “Respondent”), alleging that the Respondent violated the Maryland Nurse Practice Act (the “Act”), Md. Code Ann., Health Occ. §§ 8-101 *et seq.* (2014 Repl. Vol. & 2020 Supp.), specifically § 8-6A-10(a)(14), (18), and (29), predicated on Code of Maryland Regulations (“COMAR”) 10.39.07.02C(3) and (12).

The Board’s Charges notified the Respondent of the opportunity to request an evidentiary hearing before the Board. The Charges also advised that if the Respondent failed to submit a request for a hearing to the Board within thirty (30) days from the date of the issuance of the Charges, the Respondent would waive the opportunity for an evidentiary hearing. In the event of such a waiver, the Charges notified the Respondent that the Board would issue a final decision and order by default pursuant to the authority of § 8-6A-10(a) and (b) of the Health Occupations Article, Md. Code Ann., State Gov’t §§ 10-210(4) and 10-221 (2014 Repl. Vol.), and COMAR 10.27.02.09, wherein the allegations of fact in the Charges would become findings of facts, the disciplinary grounds that the Charges alleged to have been violated would become conclusions of law, and a disciplinary sanction and/or monetary penalty would be imposed.

¹ The Board’s Charging Document consisted of two three-page letters and a four-page document entitled, “Charges Under the Maryland Nurse Practice Act.” The Board’s Charging Document is appended to this Order as Exhibit A and is incorporated by reference in its entirety.

The Board sent its Charges by regular and certified mail to the Respondent's last known addresses on June 7, 2021 and June 14, 2021. The Board finds that the Charges were properly issued and that due and proper notice was given to the Respondent in accordance § 8-6A-10.1 of the Health Occupations Article and §§ 10-207 and 10-209(a) and (c) of the State Government Article of the Maryland Annotated Code.

The Respondent failed to submit a request for an evidentiary hearing within thirty (30) days from the date of the issuance of the Board's Charges. Thus, the Board finds that the Respondent has waived the right to an evidentiary hearing and that the Board is authorized to issue this final decision and order by default pursuant to the authority of § 8-6A-10.1(e) of the Health Occupations Article and § 10-210(4) of the State Government Article of the Maryland Annotated Code.

FINDINGS OF FACT

The Board adopts allegations of fact numbers 1-7 on pages 2-4 of the attached Charges as Findings of Fact.

CONCLUSIONS OF LAW

Accordingly, the Board concludes that the Respondent has violated § 8-6A-10(a) of the Health Occupations Article:

- (14) Has practiced as a nursing assistant or medication technician in a manner which fails to meet generally accepted standards for the practice of a nursing assistant or medication technician;
 - (18) Has misappropriated patient or facility property;
 - (29) Engages in conduct that violates the code of ethics; *to wit*,
COMAR 10.39.07.02
- C. A certificate holder may not engage in the following behaviors that dishonor the practice, whether or not acting in the capacity or identity of a certificate holder, including, but not limited to:

PHILPOT, Frances Ann (A00023019)
Default Final Decision and Order of Revocation of Certified Nursing Assistant Certificate

- (3) Deceiving, defrauding, or stealing from a coworker, employer, client, or client's family member;
- (12) Engaging in unprofessional or immoral conduct[.]

The Board concludes that these violations of the Act fall within category L(2) of the Board's sanctioning guidelines. *See* COMAR 10.27.26.07L(2). The range of potential sanctions under category L(2) includes reprimand to revocation and/or a monetary penalty of \$100 to \$500. *Id.*

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the certificate of the Respondent to practice as a certified nursing assistant in the State of Maryland, certificate number A00023019, is hereby **REVOKED**; and it is further

ORDERED that the Board will not consider an application for reinstatement of the Respondent's certificate to practice as a certified nursing assistance any earlier than **ONE (1) YEAR** from the effective date of this Order; and it is further

ORDERED that this Default Final Decision and Order is a **PUBLIC RECORD** under Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014 Repl. Vol.).

3/8/2022
Date

Karen E. B. Evans MSN, RN-BC
The Executive Director's Signature
Appears on the Original Document

PHILPOT, Frances Ann (A00023019)

Default Final Decision and Order of Revocation of Certified Nursing Assistant Certificate

NOTICE OF APPEAL RIGHTS

Any person aggrieved by a final decision of the Board under § 8-6A-10 of the Health Occupations Article may take a direct judicial appeal within thirty (30) days of the date this Order is mailed, as provided by § 8-6A-11 of the Health Occupations Article, § 10-222 of the State Government Article, and Title 7, Chapter 200 of the Maryland Rules, including Md. Rule 7-203 ("Time for Filing Action").

DATE MAILED: _____

MAR - 9 2022



Board of Nursing

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Secretary

COPY TO ALTERNATE ADDRESS

June 14, 2021

The Respondent's address appears on the original document.

**RE: NOTICE OF AGENCY ACTION-Charges under the Maryland Nurse Practice Act
Frances Ann Philpot, A00023019**

Dear Ms. Philpot:

The Maryland State Board of Nursing (the "Board") is the state agency responsible for the regulation of the practice of nursing in the State of Maryland pursuant to the authority of the Maryland Nurse Practice Act, Md. Code Ann., Health Occupations ("Health Occ."), § 8-101 *et seq.* (2014 Repl. Vol. & 2020 Supp.). Pursuant to § 8-6A-10(a) and (b) of the Health Occupations Article, the Board may reprimand any certificate holder, place any certificate holder on probation, suspend or revoke the certificate of a certificate holder, and/or impose a monetary penalty if the Board finds that the certificate holder has violated any of the disciplinary grounds set forth under HO § 8-6A-10(a)(1)-(34).

Based on the allegations of fact and violation(s) of the disciplinary ground(s) cited in the enclosed document entitled, "Charges Under the Maryland Nurse Practice Act," (hereinafter "Charges"), the Board is notifying you of its intent to take disciplinary action against your certification, which may include reprimand, probation, suspension, revocation, and/or monetary penalty. This letter and the enclosed Charges constitute the notice of agency action that is required by the Maryland Administrative Procedure Act, Md. Code Ann., State Government ("State Gov't.") § 10-207.

Under § 86A-10.1 of the Health Occupations Article, the Board is required to give you an opportunity for an evidentiary hearing before it may take any disciplinary action against your certification.

TO REQUEST A HEARING:

If you wish to schedule a hearing, please submit a written request for hearing to the Board within 30 days of the date of this letter, by mail, fax or email, to:

4140 Patterson Avenue - Baltimore, Maryland 21215-2254
Toll Free: 1 (888) 202 - 9861 • Phone: (410) 585 - 1900 • TTY/TDD: 1 (800) 735 - 2258
Fax: (410) 358 - 3530
www.mbon.maryland.gov



**NOTICE OF AGENCY ACTION: Charges Under the Nurse Practice Act
Frances Ann Philpot, A00023019**

**Attn: Amber Havens Bernal
Enforcement Division – Discipline Dept.
Maryland Board of Nursing
4140 Patterson Avenue
Baltimore, Maryland 21215
Fax: (410) 358-1499
Email: mbon.nursingdiscipline@maryland.gov**

A Request for Hearing form has been enclosed for your convenience.

If you submit a written request for an evidentiary hearing, the Board will schedule a case resolution conference to provide an opportunity for a resolution of this case without proceeding to a formal evidentiary hearing. Your attendance at the case resolution conference is voluntary, and your decision not to attend the case resolution conference will not have any influence on subsequent proceedings in this case. If you choose not to attend the case resolution conference, the Board will schedule an evidentiary hearing on the merits of the Charges.

The Board will notify you in writing, at your last known address on record with the Board, of the date, time and location of the case resolution conference and evidentiary hearing. A copy of the Board's hearing procedures will be made available to you upon request. The hearing before the Board will be conducted in accordance with the Maryland Administrative Procedure Act, State Gov't § 10-201 *et. seq.*, § 8-6A-10.1 of the Health Occupations Article, and regulations promulgated by the Board at Code of Maryland Regulations ("COMAR") Title 10, Subtitle 27, Chapter 02.

Pursuant to § 8-6A-10.1 of the Health Occupations Article, and §§ 10-206.1 and 10-208 of the State Government Article, you have the right to be represented by an attorney, to subpoena evidence and witnesses, to present evidence, to cross-examine witnesses called against you, and to present summation and argument. Pursuant to § 8-6A-10(a)-(b) of the Health Occupations Article, § 10-221 of the State Government Article, and COMAR 10.27.02.09, if, after a hearing, the Board finds that you violated any of the disciplinary ground(s) in the enclosed Charges, the Board may take disciplinary action against your certification by issuing a **public** Final Decision and Order, which will include findings of fact, conclusions of law, and an order of a disciplinary sanction against your certification, which may include reprimand, probation, suspension, revocation and/or a monetary penalty.

Also, pursuant to § 10-208(b)(7) of the State Government Article, you may agree to the evidence and waive your right to appear at the hearing before the Board. However, if you waive your right to appear at the hearing or fail to appear at the hearing for any other reason, please be advised that pursuant to § 8-317(e) of the Health Occupations Article, § 10-210(4) of the State Government Article, the Board may hear and consider the State's evidence, decide the disposition of your case despite your absence, and issue a **public** Final Decision and Order, which will include findings of fact, conclusions of law, and, if necessary, a disciplinary sanction against your certification, which may include reprimand, probation, suspension, revocation and/or a monetary penalty.

**NOTICE OF AGENCY ACTION: Charges Under the Nurse Practice Act
Frances Ann Philpot, A00023019**

IF YOU DO NOT REQUEST A HEARING:

If you do not request a hearing in writing within 30 days of the date of this letter, you will have waived your opportunity for a hearing. Pursuant to the authority of § 8-6A-10(a) and (b) of the Health Occupations Article, §§ 10-210(4) and 10-221 of the State Government Article, and COMAR 10.27.02.09, the Board may, in its discretion, issue a **public** Final Decision and Order by default, in which: (1) the allegations of fact in the Charges become findings of fact; (2) the section(s) of § 8-6A-10(a) of the Health Occupations Article that the Board has alleged you violated in the Charges become conclusions of law; and (3) a disciplinary sanction is ordered against your certification, which may include reprimand, probation, suspension, revocation and/or a monetary fine.

Any decision made by the Board regarding the Charges could affect your certificate to practice as a certified nursing assistant in the State of Maryland. Any Final Decision and Order issued by the Board will be a **public document** and **cannot be expunged**. Therefore, **you are strongly advised to retain and be represented by an attorney in any proceeding before the Board. To appear on your behalf, your attorney must be admitted to the Bar in Maryland or specifically admitted pursuant to Maryland Rule 19-217 which governs special admission of out-of-state attorneys pro hac vice.**

If you or your attorney have any questions about this letter or the enclosed Charges, or you wish to see any other material in your Board file regarding this case, please contact the Administrative Prosecutor assigned to your case, Denise McKoy, AAG, at (410) 767-1384.



Karen E. B. Evans MSN, RN-BC
The Executive Director's Signature
Appears on the Original Document

Enclosures: Charges under the Maryland Nurse Practice Act
Request for Hearing form

cc: Denise McKoy, Assistant Attorney General, Administrative Prosecutor



Board of Nursing

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Secretary

June 7, 2021

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Karen E. B. Evans MSN, RN-BC
The Executive Director's Signature
Appears on the Original Document

Enclosures: Charges under the Maryland Nurse Practice Act
Request for Hearing form

cc: Denise McKoy, Assistant Attorney General, Administrative Prosecutor

IN THE MATTER OF
FRANCES ANN PHILPOT
CERTIFICATE No. A00023019

* BEFORE THE MARYLAND
* BOARD OF NURSING
* OAG CASE No. 21 - BP - 012

* * * * *

CHARGES UNDER THE MARYLAND NURSE PRACTICE ACT

The Maryland Board of Nursing (the “Board”) hereby charges the certificate of **FRANCES ANN PHILPOT** (the “Respondent”), Certified Nursing Assistant Certificate Number **A00023019**, pursuant to the Maryland Nurse Practice Act (the “Act”), Md. Code Ann., Health Occupations Article (“Health Occ.”) §§ 8-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

The pertinent provisions of the Act are as follows:

§ 8-6A-10 (a) *Penalties.* - Subject to the hearing provisions of § 8-317 of this title and § 8-6A-10.1 of this subtitle, the Board may...reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke the certificate of a certificate holder, if the...certificate holder:

- (14) Has practiced as a nursing assistant or medication technician in a manner which fails to meet generally accepted standards for the practice of a nursing assistant or medication technician;
- (18) Has misappropriated patient or facility property;
- (29) Engages in conduct that violates the code of ethics; *to wit*, Code of Maryland Regulations (“COMAR”) 10.39.07.02 C. A certificate holder may not engage in the following behaviors that dishonor the practice, whether or not acting in the capacity or identity of a certificate holder, including, but not limited to:
 - (3) Deceiving, defrauding, or stealing from a coworker, employer, client, or client’s family member;
 - (12) Engaging in unprofessional or immoral conduct;

PHILPOT, FRANCES ANN: A00023019 - CHARGES

ALLEGATIONS OF FACT¹

The Board bases its charges on the following facts that the Board has cause to believe are true:

1. On June 7, 2000, the Respondent was issued a Certified Nursing Assistant (“CNA”) certificate, in the State of Maryland. The Respondent’s CNA certificate is “active” and is due to expire on October 28, 2021.

COMPLAINT

2. On or about October 7, 2019, the Board received a complaint regarding the Respondent’s practice from Hospital.²
3. The complaint alleged that “security investigated the theft of a patient’s credit card and resulting charges against the card. During the investigation, evidence was produced showing [the Respondent] used the card.”

Hospital’s Investigation:

4. In a September 24, 2019 Supplemental Report, Hospital’s Investigator provided the following information:
 - i. Suspect has been identified as Frances A. Philpot, Clinical Technician on [Cardiac Care Unit “CCU”]
 - ii. Relative to the theft of [Patient’s] wallet and Visa Debit card between 9/9/2019 – 9/10/2019 the investigation revealed the above-named suspect as the person responsible for the offense.
 - iii. Follow up investigation revealed Frances A Philpot worked as a Clinical Technician on [CCU] on 9/9/2019 beginning at 11 pm and getting off work on 9/10/2019 at 7:30 am. The victim [Patient] is a patient on [CCU] due to heart ailment. [Patient] kept her wallet containing \$200, one Visa debit card and various

¹ The statements regarding the Respondent’s conduct identified herein are intended to provide the Respondent with reasonable notice of the asserted facts. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent.

² To maintain confidentiality, facility, patient and employee names are not disclosed in this document, but will be provided to the Respondent on request.

PHILPOT, FRANCES ANN: A00023019 - CHARGES

- forms of I.D. inside her hospital room closet. Apparently during the 11 pm – 7:30 am shift clinical technician Frances A Philpot stole [Patient's] wallet and debit card from the hospital room closet without [Patient's] knowledge, authorization or permission during her shift. The card was then first used on 9/10/2019.
- iv. Further investigation revealed the suspect fraudulently used the stolen Visa card on twelve separate occasions between 9/10/2019 through 9/14/2019 at various stores in the Baltimore Metropolitan area for a total amount of \$1211.87.
 - v. On 9/20/2019 your investigator met with Nurse Manager of CCU. At this time Nurse Manager located the suspect Frances A Philpot and brought the suspect to her office. Your investigators along with Nurse Manager and Frances Philpot then walked over [to] the investigators unit office.
 - vi. The interview was conducted in the unit conference room. At this time your investigator explained to Frances why we were here, relative to the thefts of patients' credit cards which occurred on [SICU] and [CCU] during June and September 2019. I informed Frances we had still photographs and video of her using the stolen credit card purchasing merchandise. Upon showing Frances the still photographs, she (Frances) readily admitted that the person in the still photographs was her. Frances stated that in the [Hardware] photographs she was buying a window air conditioner unit. Frances stated she didn't steal the credit cards, but it was her in the photograph, stating "I know what I look like." Frances then became upset stated she had to leave to go home. Frances added she didn't want to talk about it right now, but said "I'll come back on Monday at 9 am."
 - vii. Frances A Philpot never showed up for the 9/23/2019 Monday morning interview. On 9/24/2019 Frances called your investigator and stated she was seeking legal counsel and would not be coming into be interviewed.

Personnel File:

5. On September 20, 2019, the Respondent received Disciplinary Action – Suspension pending outcome of investigation for theft of property.
6. On September 23, 2019, the Respondent's employment was involuntarily terminated.

THE BOARD INVESTIGATOR'S INTERVIEW:

7. During an interview conducted on November 17, 2020, the Respondent reported that she worked at Hospital for approximately 6 months as a Patient Care Technician in the CCU. When asked if she removed a credit card from a patient and used it to make purchases, the

PHILPOT, FRANCES ANN: A00023019 - CHARGES

Respondent stated "I did." The Respondent identified the victim as Patient and stated she had not taken any steps to make restitution to the patient.

NOTICE OF POSSIBLE SANCTIONS

If the Board finds that there are grounds for action under Md. Code Ann., Health Occ. § 8-6A-10 (a) (14), (18) and/or (29), the Board may impose disciplinary sanctions against the Respondent's certificate, pursuant to COMAR 10.27.26, including reprimand, probation, suspension, revocation and/or the imposition of a monetary penalty.

June 7, 2021
Date

Karen E. B. Evans MSN, RN-BC
The Executive Director's Signature
Appears on the Original Document